

**TIPPECANOE COUNTY BOARD OF COMMISSIONERS
REGULAR MEETING
February 21, 2011**

The Tippecanoe County Commissioners met on Monday, February 21, 2011 at 10:00 a. m. in the Tippecanoe Room in the County Office Building. Commissioners present were: President David S. Byers, Vice President Thomas P. Murtaugh, and Commissioner John L. Knochel. Also present were: Attorney David W. Luhman, Auditor Jennifer Weston, Commissioner's Assistant Frank Cederquist, and Secretary Kay Muse.

President Byers called the meeting to order and led the Pledge of Allegiance.

APPROVAL OF MINUTES

- Commissioner Murtaugh moved to approve the minutes of the February 7, 2011 regular meeting, second by Commissioner Knochel; motion carried.

PRESENTATION OF ACCOUNTS PAYABLE VOUCHERS

Commissioner Murtaugh recommended approval of accounts payable vouchers for February 10, 11, 16, 17, 18, and 21, 2011 as submitted without exception.

- Commissioner Murtaugh moved to approve the accounts payable vouchers as presented without exception, second by Commissioner Knochel; motion carried.

OPENING OF BIDS FOR THE COURTHOUSE WINDOW PROJECT

Commissioner Murtaugh said this project would include replacement and restoration of the Courthouse windows.

Attorney Dave Luhman opened and read the following bids:

| COMPANY NAME | Base Bid | ALT 1 | ALT 2 | ALT 3 |
|--|-----------------|--------------|--------------|--------------|
| Innovative Construction Services, Inc. | \$688,000 | +136,000 | +67,500 | +31,000 |
| Glenroy Construction Company | \$799,000 | +236,000 | +71,000 | +49,000 |
| Brandt Construction | \$949,500 | +263,300 | +36,600 | +45,000 |

Attorney Luhman recommended taking the bids under advisement for review of the bid specifications.

- Commissioner Murtaugh moved to take the bids for the Courthouse Window Project under advisement as presented, second by Commissioner Knochel; motion carried.

HIGHWAY – Opal Kuhl

Temporary Easement Grant – Eisenhower Road Drainage Project

Director Kuhl presented a Temporary Easement Grant for parcel 4 & 4A on Eisenhower Road in the name of Richard and Therese A. Vierling in the amount of \$4,000. It is for the Eisenhower Road Drainage Project to correct erosion problems.

- Commissioner Murtaugh moved to approve the Temporary Easement Grant as presented, second by Commissioner Knochel; motion carried.

Continuation Certificate –Tri-County Telephone Company

Director Kuhl presented a \$5,000 annual continuation certificate from the Tri-County Telephone Company d/b/a Telecom. It is for work in the right-of-way.

- Commissioner Murtaugh moved to accept the continuation certificate as presented, second by Commissioner Knochel; motion carried.

Contract Modification No. 3 – Bridge #151

Director Kuhl presented Contract Modification No. 3 with Jack Isom Construction for the Bridge #151 Rehabilitation Project. Changes include the removal and replacement of inadequate soil and the addition of riprap on the NW corner. It is in the amount of \$47,039, which brings the total contract to \$2,648,974.22. It is a change of 1.7%.

- Commissioner Murtaugh moved to approve Contract Modification No. 3 as presented, second by Commissioner Knochel; motion carried.

Ordinance 2011-08-CM – Traffic Schedule Regarding Speed Limits

Traffic Supervisor Mike Parks presented Ordinance 2011-08-CM for approval.

Changes are as follows:

The Tippecanoe County Code Chapter 72, Schedule I, Traffic Schedule regarding Speed Limits, be amended to delete the following and re-adopted as so amended (*see Ordinance 2011-08-CM*):

| <i>Road/Street</i> | <i>Location</i> | <i>Speed Limit (m.p.h.)</i> | <i>Temp Speed (m.p.h.)</i> | <i>Ordinance</i> | <i>Date</i> |
|--------------------|---|-----------------------------|----------------------------|------------------|-------------|
| Old CR 350 South | From Dead End (east of US 52) to Newcastle Road | 40 | NA | 2008-21-CM | 11-17-08 |

The Tippecanoe County Code Chapter 72, Schedule I, Traffic Schedule regarding Speed Limits, be amended to include the following:

| <i>Road/Street</i> | <i>Location</i> | <i>Speed Limit (m.p.h.)</i> | <i>Temp Speed (m.p.h.)</i> | <i>Ordinance</i> | <i>Date</i> |
|--------------------|---|-----------------------------|----------------------------|------------------|-------------|
| CR 100 East | From SR 28 to 300 feet North of CR 1050 South | 45 | NA | 2011-08-CM | 4-1-11 |
| Old CR 350 South | From Dead End (east of US 52) to CR460 East | 30 | NA | 2011-08-CM | 4-1-11 |
| Wyandotte Road | From 800 feet West of Dayton Road to 800 feet East of Dayton Road | 40 | NA | 2011-08-CM | 4-1-11 |

These roads do not currently have a posted speed limit. The statutory speed limit is 50 m.p.h. on all roads that do not have a speed limit posted. If approved the effective date would be April 1, 2011.

Commissioner Byers asked for public comment on Ordinance 2011-08-CM.

- Commissioner Murtaugh moved to hear Ordinance 2011-08-CM as presented on first reading, second by Commissioner Knochel; motion carried.

Auditor Weston recorded the vote:

| | |
|----------|-----|
| Byers | Yes |
| Knochel | Yes |
| Murtaugh | Yes |

Ordinance 2011-08-CM passes 3-0 on first reading.

Warranty Deed – Cumberland Road Project

Director Kuhl presented a Warranty Deed for Parcel #4 on Cumberland Avenue in the name of Citation Homes in the amount of \$225,000. It is slightly over 5 acres, currently zoned residential, and must go through the INDOT procedures.

- Commissioner Murtaugh moved to approve the Warranty Deed as presented, second by Commissioner Knochel; motion carried.

GRANTS

Casa Director Colleen Batt requested permission to accept an Indiana Supreme Court Grant in the amount of \$78,912.65 for the Guardian Ad Litem (GAL) program. A Guardian Ad Litem is usually an attorney appointed by the Court to represent the child(ren) in a legal dispute.

- Commissioner Murtaugh moved to grant permission to accept the grant as presented, second by Commissioner Knochel; motion carried.

Casa Director Colleen Batt requested permission to apply for a CASA's For Kids Fund, Inc. Grant in the amount of \$8,875. It will be used to purchase office supplies and to support a part time clerical position.

- Commissioner Murtaugh moved to grant permission to apply for the grant as presented, second by Commissioner Knochel; motion carried.

Grant Administrator Laurie Wilson requested permission to accept an Indiana Department of Homeland Security Grant in the amount of \$3,750. It is for the purchase of radios and the upgrade of a truck with side rails.

- Commissioner Murtaugh moved to grant permission to accept the grant as presented, second by Commissioner Knochel; motion carried.

Grant Administrator Laurie Wilson requested permission to apply for a U.S. Department of Health and Human Services Grant for the Drug Free Coalition in the amount of \$124,597. The annual funding covers their operating expenses.

- Commissioner Murtaugh moved to grant permission to apply for the grant as presented, second by Commissioner Knochel; motion carried.

Grant Administrator Laurie Wilson requested permission to accept a Hazard Mitigation Grant. It does have a 25% match and requires a resolution to accept.

RESOLUTION 2011-07-CM

Attorney Luhman read Resolution 2011-07-CM accepting the terms of the Hazard Mitigation Grant.

- Commissioner Murtaugh moved to approve Resolution 2011-07-CM as presented, second by Commissioner Knochel; motion carried.

YOUTH SERVICES – Rebecca Humphrey
Agreement for Consultation Services

Director Rebecca Humphrey requested approval of an agreement between Wabash Valley Alliance, Inc. and Cary Home. As requested, Wabash Valley agrees to provide a CNS to attend monthly meetings and to review psychiatric aspects of Cary Home's programs. Attorney Luhman has reviewed the agreement.

- Commissioner Murtaugh moved to approve the Wabash Valley Alliance, Inc. Business Associate Agreement, second by Commissioner Knochel; motion carried.

ORDINANCE 2011-09-CM – Amending Health Department Fees and Charges

Director Ron Cripe presented Ordinance 2011-09-CM for approval. Fee increases include birth certificates from \$8 to \$10, paternity affidavits from \$10 to \$25, and Mantoux skin test (TB) from \$10 to \$15. Inspection fees for retail food establishments would increase based on the number of employees and ranges from \$150 to \$450. With the increase in technology equipment, repair costs have also increased. Fees have not been increased since 2007 and many of the requested items did not increase at that time. The ordinance would become effective upon adoption.

- Commissioner Murtaugh moved to hear Ordinance 2011-09-CM as presented on first reading, second by Commissioner Knochel; motion carried.

Auditor Weston recorded the vote:

| | |
|----------|-----|
| Byers | Yes |
| Knochel | Yes |
| Murtaugh | Yes |

Ordinance 2011-09-CM passes 3-0 on first reading.

ORDINANCE 2010-24-CM – Repealing Chapter 161 and Adding New Chapter 161 Wind Energy Conversion Systems

- Commissioner Murtaugh moved to hear Ordinance 2010-24-CM on second reading, second by Commissioner Knochel; motion carried.

Attorney Luhman stated that after the first reading passage of this ordinance on November 4, 2010 further investigation prompted a revised ordinance for consideration on second reading. Three amendments to Ordinance 2010-24-CM can be located in Sections 161.08B, 161.08C, and 161.09L of the ordinance. Attorney Luhman said that the first change is with respect to including in the ordinance a requirement that non-commercial and commercial WECS include in their application or WECS permit a protocol for how the sound would be measured after construction. It states "a protocol for conducting post-construction sound measurements to verify that the WECS Project will meet the requirements of Section 161.09, which has been approved by a Qualified Independent Acoustical Consultant retained by the County." The second area of amendment is in section 161.09L and includes a penalty of 5dBA and 5dBC to be added to the actual sound level measured for each of the conditions listed below if they are created by the operation

of the wind turbines. One of those conditions is the presence of a prominent tone. Prominent tone, previously described in the ordinance did not impose a penalty.

Commissioner Byers requested public comment adding that there would be a three-minute limit.

Tim Strueh, 624 Bennett Road, Lafayette – requested that the recommendations of the consultant(s) be put into the public record. He added that it was not until Friday afternoon that the revisions were made available and this left only a short time to review them.

Attorney Luhman stated that those recommendations are public records and can be seen if requested.

Sarah Tyler, 7411 W 100S, West Point – said that according to the Invenenergy website they pride themselves on being a company that values long term relationships with the communities in which they work. Ms. Tyler went on to ask why Invenenergy is being given so much allowance. She is concerned about property values and quality of life.

Lauren Lockhart, 247 E. Washington Street, Lafayette – asked what is the reason for proposing a change that will increase the noise intrusion in quiet rural areas and why industrial wind turbines would be allowed to create more noise than an industrial plant is allowed to make at an adjacent property. She added that quiet rural areas should be offered more protection with lower decibel limits. Since industrial wind turbines are industrial and not agriculture, why should wind developers enjoy preferential treatment.

Robert Brooks, Lafayette – said that his concern is mostly how the noise, created by the wind turbines, will affect his two small children. Mr. Brooks said that the World Health Organization (WHO) guidelines recommend less than 30 decibels dba in bedrooms during the night for a sleep of good quality. WHO also said that some groups are more vulnerable to noise, and that since children spend more time in bed than adults do they are more exposed to night noise.

Mark Russell, 6001 Maple Forest Rd., West Point – said that if you have signed a contract with a WECS developer you have given up any protection offered by this ordinance. Non-participating landowners should not be subjected to the same conditions as those who are participating. If sound levels are increased to 50dba then the County will be giving exponentially more non-participating land to the developers than has already been given at 45dba. Why is it okay for the noise and turbulence to significantly affect the use and enjoyment of non-participating landowners property.

Carl Covely, 5740 S 800 E, Tippecanoe County – said that he lives 1900 feet E of Interstate 65 and the noise generated by the traffic measures 50db inside his home. Mr. Covely said that there are times when he must use earplugs at night. The frequency created by the turbines may be different from the noise created by traffic however, 50 dba is too high. It should be left at 45dba.

Jim Pairitz, 8323 W 1200 S, West Point, – said a consultant was hired by several concerned landowners. Rick James is the Principal Consultant for E-Coustic Solutions. Mr. Pairitz requested a copy of the recommendations and the qualifications of Dr. Campanella (the County's consultant). The wind developers have removed elements of the ordinance without consideration to the rural homeowner. If the current restrictions are too strict, the developers need to prove that there is no risk to public safety with the levels they are requesting. This ordinance will give developers the legal hammer to use against the residents of Tippecanoe County. It would be better not to have an ordinance than to give them this legal cover.

Paul Widmer, 9511 US 231 N, West Lafayette, – said he lives close the White County line where turbines have been already been built. One of his neighbors reported that he does not hear the turbines any longer.

However, while standing at his tool shed it was very difficult to carry on a conversation with him. He has become insensitive to the noise.

Kay Pairitz, 8323 W 1200 S, West Point, – said that while attending the Wind Indiana Conference, Dr. James Howell with the Indiana State Department of Health said that one of the World Health Organizations definition of health states ...Health is a state of complete physical, mental, and social well-being and not merely the absence of disease or infirmity. Page 3 of the ordinance states that its purpose is to provide minimum standards for the protection of life, limb, health, environment, public safety, and welfare, and for the conservation of energy in the design and construction of wind energy systems. The World Health Organizations definition of noise annoyance is a feeling of resentment, displeasure, discomfort, dissatisfaction, or offense that occurs when noise interferes with someone's thoughts, feeling or daily activities. The proposed changes will add an unacceptable sound to the rural environment and will cause many of the problems mentioned. It is an extremely sad thought that the non-participating landowners will have their lives changed for the sake of money. Although the limit is set at 50 dba, the way the ordinance is written this is an average over the period of one hour. How loud can the turbines actually be? These issues need to be addressed before this ordinance is voted on.

Attorney Luhman stated that the proposed dba level is an average of 50dba taken over a period of one hour.

Julie Peretin, 505 Portledge Commons Drive, Lafayette – said for clarification that means that the noise level can go as high as they would like as long as it averages 50 dba per hour. Tippecanoe County is the only County that has taken the time to draft its own WECS ordinance. Invenergy has experience designing projects to fit a variety of ordinances. In Canada, Invenergy has completed several projects. Each turbine must be over 1800 feet from a non-participating home. Their sound limits are set at 40 dba and Invenergy was still able to construct projects with the stricter standards. Invenergy was able to construct their Willow Creek Project in Oregon with a 36-dba limit and a 1320-foot setback. Invenergy requested a 1500 setback in New Mexico claiming it was industry standards. Their county board created an ordinance with a half-mile setback. This ordinance was created almost a year ago and it should not be accepted as it applies today. Noise issues are difficult to mitigate after construction.

Bryan Hoffman, 8617 S 100 W, Romney – said that all of the concerns brought forth are reasonable. The wind developers are proposing shoe horning Tippecanoe County with a huge wind turbine development because it meets their needs. Mr. Hoffman said that he was not opposed to wind energy but is opposed to reducing the restrictions so much it will result in high-density wind turbines in Tippecanoe County.

Linda Widmer, 9511 US 231 N, West Lafayette, – said the wind turbine companies often make the decision to build in an area and then calculate setbacks and dba levels. This is not a way to make public policy. European countries set noise limits of 35 dba. If Germany can have a successful wind turbine industry and still protect resident's night time sleep conditions then why can't we do the same. Ms. Widmer asked if the wind developers would be conducting any studies such as sound test or shadow flicker and if the residents would be notified of that.

Commissioner Byers said studies must be done prior to the application and when there is a requested variance residents must be notified.

Norbert Stratkemper, 1333 King Arthur Drive, Lafayette, – said that it has been suggested that 50 decibels is a good environment for sleep. Mr. Stratkemper suggested that a good test of the changes to this ordinance would be to monitor the decibel level during a Commissioner's meeting while adjusting the level from 20 decibels to 80 decibel to reach the average of 50 decibels; this would allow the Commissioners to experience the possible outcome of this change.

Paul Gretencord Jr., Benton County, – said that he lives $\frac{3}{4}$ of a mile from a turbine development and the turbines can be heard at night. The further the distance, the less noticeable the noise, but the wind developers do not want to go a further distance. This is because it requires additional cable, which is additional cost. Residents need to be protected from the effects of the turbines.

Greg Leuchtmann, Invenergy – said that Invenergy is considering a development in Southwest Tippecanoe County. Setbacks can range from 1.1 times the height of the turbine to 2500 feet. This is due to being regulated at a County level. Similarly sound levels also vary widely. Some allow for 65 decibels and some are 45 decibel, White County does not have requirements for noise levels. Benton County has a noise limit of 55 decibels. There is a balance between what will allow a development and what will cancel a development. This ordinance includes a 50-decibel limit, but also requires a dbc level a 31-hertz level a 63-hertz level as a penalty for tones. It requires a number of things that require us to be in compliance. We are trying to reach something that will protect residents and still allow this project to go forward. This ordinance strikes the balance that will allow wind energy to be developed Tippecanoe County or not.

Joe Rund, 2916 W 1200 S, Romney, – said he has lived in Romney for 37 years. Mr. Rund said that he feels for people who are so concerned about harnessing energy from his land. Wind energy is a by-product of solar energy, which he would like to harness as well. He added that he would prefer there not be any setbacks except those agreed to by the landowners. This ordinance will reduce the number of turbines allowed on his property significantly.

Commissioner Byers said that a letter received from Jeff Maddox would be placed into the public record. Commissioner Byers read aloud portions of the letter.

Written submissions from present and non-present members of the public are appended to these minutes.

Commissioner Murtaugh said that this item is difficult. However, the ordinance does call for annual inspections to continue operation. It will be monitored continually. Industrial zoning noise levels are a constant noise. The noise from the wind turbines will be intermittent. This ordinance is a compromise and addresses residents concerns. Commissioner Murtaugh added that he would support the ordinance.

Commissioner Knochel said that he could relate to many of the issues with the wind turbine development due to the Hoosier Heartland being constructed close to his residence. Commissioner Knochel added that he would not be supporting the ordinance because he doesn't feel it should be amended from the original version.

Commissioner Byers said that although he lives in the area of the proposed development, he has not spoken with any companies concerning wind turbines on his property.

Attorney Dave Luhman said a motion is necessary to amend the draft ordinance before it is heard on second reading. That motion would include the three amendments to Ordinance 2010-24-CM that are located in Sections 161.08B, 161.08C, and 161.09L that were read earlier.

- Commissioner Murtaugh moved to accept the amendments to Ordinance 2010-24-CM as presented, second by Commissioner Byers; motion passes 2-1.

Commissioner Byers called for a vote on Ordinance 2010-24-CM as amended.

Auditor Weston recorded the vote:

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| Byers | Yes |
| Knochel | No |
| Murtaugh | Yes |

Ordinance 2010-24-CM passes 2-1 on second and final reading.

APPOINTMENTS

- Commissioner Murtaugh moved to appoint Dave Lahr to the Common Wage Board at Purdue University, second by Commissioner Knochel; motion carried.

UNFINISHED / NEW BUSINESS

County Prosecutor Pat Harrington thanked Commissioner Murtaugh for his work on Senate Bill 561. Some of the issues are the unfunded mandate, which could lead to loss of revenue to the jail for DOC inmates and could have a crippling effect on the budget, and the decriminalizing drug dealing. Prosecutor Harrington urged the Commissioners to continue to discuss this bill with local legislators.

REPORTS ON FILE

Health
Clerk
Monthly Mail & Duplicating
Annual Mail & Duplicating

PUBLIC COMMENT

Paul Wright, *West Point* – said the public might be more agreeable to the wind developments if the total number of wind turbines was known and how much revenue would be generated from those turbines.

Commissioner Byers said that until the wind developers submit a plan those numbers are not known.


Jim Pairitz, *8323 W 1200 S, West Point*, – added that there is an error in the ordinance; it states that this change is from 66.3 hertz to 63 hertz. Mr. Pairitz said that he believes it should read 66.3 hertz.

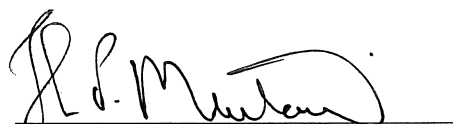
Robert Brooks, *Lafayette* – said that he would be unable to sell his home now that Ordinance 2010-24-CM passed. He expressed his concern for his children.

Julie Peretin, *505 Portledge Commons Drive, Lafayette* – said that she would like to see the recommendations made by Dr. Campanella and would like them to be part of the public record. Industrial zoning can only exceed 45 decibels for 15 minutes over a 24-hour period.

Commissioner Murtaugh moved to adjourn.

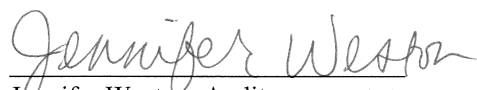
**BOARD OF COMMISSIONERS OF
THE COUNTY OF TIPPECANOE**


David S. Byers, President


Thomas P. Murtaugh, Vice President


John L. Knochel, Member

ATTEST:


Jennifer Weston, Auditor 3-7-2011